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November 15, 2016

VIA CERTIFIED MAIL, RRR

Hon. Christopher S. Perrino
Attorney General
N.J. Department of Law & Public Safety
R.J. Hughes Justice Complex
P.O. Box 080
Trenton, NJ 08625-0080

Newark Municipal Clerk
920 Broad Street
Newark, NJ 07102

M. Blake Cleary
Young Conaway Stargatt & Taylor, LLP
1000 North King Street
Wilmington, DE 19801
Tierra Solutions, Inc.
2 Tower Center Blvd. 10th floor
East Brunswick, New Jersey 08816

Hon. Robert Martin
Commissioner
N.J. Department of Envir. Prot.
401 East State Street, 7th Floor
P.O. Box 402
Trenton, NJ 08625-0402

James M. Peck, Esq.
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Maxus Energy Corporation
10333 Richmond Avenue, Suite 1050
Houston, Texas 77042



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N.J. DEPT. OF ENVIRONMENTAL PROT.
LEGAL AFF. DIV.

A Pennsylvania Limited Liability Partnership

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NOTICE UNDER N.J.S.A. 2A:35A-11 (ENVIRONMENTAL RIGHTS ACT)

Noticing Party: S&A Realty
Against: Maxus Energy Corporation
Tierra Solutions, Inc.

Properties: 80 and 120 Lister Avenue
Newark, NJ

Passaic River Study Area
(Upper & Lower Passaic)

Newark Bay Complex

Dear Sir / Madam:

This firm represents claimant, S&A Realty (S&A). Pursuant to the Environmental Rights Act, *N.J.S.A. 2A:35A-1 et seq.* (ERA), this letter provides notice as required by *N.J.S.A. 2A:35A-11* that S&A intends -- if and when permitted by Order of the United States Bankruptcy Court for the District of Delaware in matters Maxus Energy Corporation (Case No. 16-11501) and Tierra Solutions, Inc. (Case No. 16-11502) -- to pursue an injunctive demand for equitable relief governed by the ERA against the above-named entities (collectively "Respondents") with respect to the above-captioned property (Site).

Debtor assumed responsibility to remediate environmental harm to the Passaic River and Newark Bay. Debtor (or its corporate predecessor) owned and operated facilities at or about 80 and 120 Lister Avenue, Newark, New Jersey. Specifically, Debtor discharged and released 2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) into the soils at the Debtor's facility and into the Passaic River. Such discharge and release resulted in a discharge that continues to migrate and affect surrounding properties in the Passaic River and Newark Bay Complex.

Debtor's discharge renders it responsible for remediation of the pollution that it has caused, continues to cause, and will cause in the future. In addition to the New Jersey Common law of nuisance and trespass, Debtor remains liable and will be liable for associated discharge in the future pursuant to: (1) the Solid Waste Management Act, *N.J.S.A. §§ 13:1E-1 et seq.*; (2) the Soil Erosion and Sediment Control Act, *N.J.S.A. §§*



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4:24-39 et seq. (3) the soil control rules found at N.J.A.C. 2:90-1.1 et seq.; the New Jersey Water Pollution Control Act, N.J.S.A. §§ 13:1B-3 et seq.; (4) the New Jersey Spill Compensation and Control Act, N.J.S.A. §§ 58:10-23.11 et seq; (5) the United States Resource and Recovery Act, 42 U.S.C. §§ 6901 et seq; and (6) the Comprehensive Environmental Response, Compensation and Liability Act, 40 U.S.C. §§ 9601 et seq. To the extent Debtor is liable under any or all of these statutes—as well as under New Jersey Common Law—S&A writes to provide notice of its intent to compel Debtor to remediate fully as required by law.

S&A intends to seek injunctive relief, and to recover under restitution for those costs, damages, and fees to the extent those costs, damages, and fees rightfully should have been incurred by Debtor. S&A also reserves the right to include any additional statutory or common law claims if it files suit in this matter.

Sincerely,

JEFFREY M. POLLOCK
Fox Rothschild
Attorney for S & A Realty